

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES BRITTINGHAM,

Plaintiff,

No. CIV S-04-0037 LKK DAD P

vs.

HIGH DESERT STATE PRISON, et al.,

Defendants.

ORDER

On February 28, 2005, defendant Sandham filed an answer to plaintiff's amended complaint. Four days later, the court issued an order that begins with the statement that defendant "has filed an answer to plaintiff's amended complaint." (Discovery Order filed Mar. 4, 2005, at 1.) On November 9, 2005, plaintiff filed a request for a copy of the answer. Plaintiff states that he was never served with the answer, has never received any document from defendant's counsel or the court that reflects a street address or telephone number for counsel, and has been unable to move forward with discovery.

The court has reviewed the answer electronically filed by defendant Sandham on February 28, 2005. The document does not include a proof of service, and none was separately filed. Pursuant to the Local Rules of Practice, a party who is not registered for the court's electronic filing system must be conventionally served in accordance with the appropriate

1 Federal Rules of Procedure. Local Rule 5-135(b). A proof of service must be affixed to the
2 original of a document when it is filed. Local Rule 5-135(c). In the absence of proof that
3 defendant's answer was conventionally served on the pro se plaintiff in this case, counsel will be
4 required to serve the answer forthwith and file a proof of such service.¹ In the future, plaintiff
5 shall inform the court immediately if he has not been served with a document cited by the court
6 as having been filed by defendant.

7 Good cause appearing, IT IS HEREBY ORDERED that:

8 1. Plaintiff's November 9, 2005 request for a copy of defendant's answer is
9 granted; and

10 2. Within five court days from the date of this order, defendant shall file a proof
11 of service reflecting that the answer filed February 28, 2005, has been conventionally served on
12 the pro se plaintiff.

13 DATED: November 16, 2005.

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16 DALE A. DROZD
17 UNITED STATES MAGISTRATE JUDGE

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¹ Plaintiff is informed that no reply to the answer is required or permitted. Fed. R. Civ. P. 7(a). It is the defendant's burden to litigate any affirmative defense alleged in his answer.